Rev. Rul. 65-63, 1965-1 C.B. 240

A nonprofit organization which, in conducting sports car events for the pleasure and recreation of its members, permits the general public to attend such events for a fee on a recurring basis and solicits patronage by advertising, does not qualify for exemption as a club organized and operated exclusively for pleasure, recreation and other nonprofitable purposes under section 501(c)(7) of the Internal Revenue Code of 1954.

Advice has been requested whether a nonprofit organization, under the circumstances described below, qualifies for exemption as a club organized and operated exclusively for pleasure, recreation and other nonprofitable purposes under section 501(c)(7) of the Internal Revenue Code of 1954.

In the instant case, the organization conducts various sports car events for the pleasure and recreation of its members and their guests. All events and activities are conducted by unpaid volunteer members. However, the nature of the activities also attracts public spectators. In order to keep spectators out of the activity area, and to insure the organization and its members against liabilities resulting from the dangers and hazards of the activities, it is necessary that the organization provide enclosures for safety purposes and carry insurance to cover any liabilities.

The general public is permitted to attend the organization's auto races on a recurring basis upon payment of an admission fee. Public patronage is solicited by advertising. The income from public admission and sale of programs is used to cover race expenses, improve fencing enclosures, acquire safety and timing devices and equipment, install lights and signals, and pay liability insurance.

Section 501(c)(7) of the Code exempts from Federal income tax clubs organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, no part of the net earnings of which inures to the benefit of any private shareholder. In general, exemption from Federal income tax under this section encompasses social and recreational clubs which are supported solely by membership fees, dues and assessments. See section 1.501(c)(7)-1(a) of the Income Tax Regulations.

Section 1.501(c)(7)-1(b) of the regulations provides, in part, that a club which engages in business, such as making its social and recreational facilities available to the general public, is not organized and operated exclusively for pleasure, recreation, and other nonprofitable purposes, and is not exempt from Federal income tax under section 501(a) of the Code. The solicitation of public patronage of activities, by advertising or otherwise, is prima facie evidence that the club is engaged in business and is not being operated exclusively for pleasure, recreation or social purposes.

Public patronage or participation in club activities is permissible if incidental to and in furtherance of the club purposes, and if the net income therefrom does not inure to its members. Here however, the activities of the club, in permitting public patronage of its facilities, are of such magnitude and recurrence as to constitute engaging in business and the club uses the income derived therefrom to acquire additional assets and to pay club expenses normally borne by its members.

The same principles are involved in this case as were involved in Revenue Ruling 60-324, C.B. 1960-2, 173, wherein a club was denied exemption as a social club because its dining room and ballroom facilities were, in effect, available to the general public. Also, see Spokane Motorcycle Club v. United States, 222 Fed.Supp. 151 (1964).

In view of the above, it is held that the organization in the instant case does not qualify for exemption under section 501(c)(7) of the Code.